

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 566

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-163 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21 and IC 16-41, means any of the following:

(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an emergency medical technician-basic advanced, an emergency medical technician-intermediate, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course

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and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

- (1) a licensed physician;
- (2) a registered nurse;
- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a licensed nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an emergency medical technician-basic advanced;
- (9) an emergency medical technician-intermediate; or
- (10) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

(d) "Health care provider", for purposes of IC 16-40-4, means any of the following:

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(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or authorized by the state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), an ambulatory outpatient surgical center, a dentist, an optometrist, a pharmacist, a podiatrist, a chiropractor, a psychologist, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A blood bank, laboratory, community mental health center, community mental retardation center, community health center, or migrant health center.

(3) A home health agency (as defined in IC 16-27-1-2).

(4) A health maintenance organization (as defined in IC 27-13-1-19).

(5) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(6) A corporation, partnership, or professional corporation not otherwise specified in this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

(7) A person that is designated to maintain the records of a person described in subdivisions (1) through (6).

SECTION 2. IC 16-18-2-163.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 163.3. "Health care quality indicator data", for purposes of IC 16-40-4, has the meaning set forth in IC 16-40-4-1.**

SECTION 3. IC 16-18-2-164.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 164.6. "Health coverage provider", for purposes of IC 16-40-4, has the meaning set forth in IC 16-40-4-2.**

SECTION 4. IC 16-18-2-294.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 294.5. (a) "Program",**

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for purposes of IC 16-40-4, has the meaning set forth in IC 16-40-4-3.

(b) "Program", for purposes of IC 16-47-1, has the meaning set forth in IC 16-47-1-3.

SECTION 5. IC 16-40-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4. Health Care Quality Indicator Data Program

Sec. 1. As used in this chapter, "health care quality indicator data" means information concerning the provision of health care services that may be collected and used to measure and compare quality of health care services.

Sec. 2. As used in this chapter, "health coverage provider" means any of the following:

- (1) An insurer (as defined in IC 27-1-2-3) that issues or delivers a policy of accident and sickness insurance (as defined in IC 27-8-5-1).
- (2) A health maintenance organization (as defined in IC 27-13-1-19).
- (3) The administrator of a program of self-insurance established, implemented, or maintained to provide coverage for health care services to the extent allowed by the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).
- (4) The state Medicaid program (IC 12-15).
- (5) The children's health insurance program (IC 12-17.6).
- (6) The Indiana comprehensive health insurance association (IC 27-8-10).
- (7) A person that is designated to maintain the records of a person described in subdivisions (1) through (6).

Sec. 3. As used in this chapter, "program" refers to the health care quality indicator data program developed and implemented under sections 4 and 5 of this chapter.

Sec. 4. The state department shall, in compliance with state and federal law, develop a plan for a health care quality indicator data program. The plan shall be completed by December 31, 2006, and include the following:

- (1) A list of health care quality indicators for which data will be collected concerning health care services provided to individuals who reside or receive health care services in Indiana. The state department shall seek the assistance of health coverage providers and health care providers in

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developing the list under this subdivision.

(2) A methodology for health care quality indicator data collection, analysis, distribution, and use.

(3) The inclusion of data concerning ethnicity and minority status, as allowed by the individuals about whom health care quality indicator data is collected.

(4) A methodology to provide for a case mix system or other scientific criteria to develop and adjust health quality indicators, including infection rates, that may be affected by risks and variables.

Sec. 5. The state department of health is authorized to develop and implement a health care quality indicator program as provided for in this chapter and to include the following:

(1) Criteria listed under section 4 of this chapter.

(2) Health care quality indicator data collected from a health coverage provider or health care provider under this chapter must be obtainable from electronic records developed and maintained in the health coverage provider's or health care provider's ordinary course of business.

(3) Health coverage providers and health care providers are not required to establish or amend medical record systems or other systems to conform to the program.

Sec. 6. The following shall comply with the data collection requirements of the program:

(1) A health coverage provider.

(2) A health care provider.

(3) An out-of-state health coverage provider that:

(A) provides health coverage;

(B) administers health coverage provided; or

(C) maintains records concerning health coverage provided;

to an individual who resides or receives health care services in Indiana.

(4) An out-of-state health care provider that:

(A) provides health care services; or

(B) maintains records concerning health care services provided;

to an individual who resides or receives health care services in Indiana.

Sec. 7. (a) Health care quality indicator data and other information collected under this chapter, or resulting from the program, from which the identity of a person, including:

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- (1) an individual;
- (2) a health coverage provider; or
- (3) a health care provider;

may be ascertained is confidential and, unless otherwise specified under state or federal law, may not be released to any person without the written consent of the identified person.

(b) Communications, including printed documents, by:

- (1) an employee;
- (2) an officer;
- (3) a governing board member; or
- (4) an agent;

of a hospital (licensed under IC 16-21) for the purpose of collecting, identifying, reviewing, or producing data for a health care quality indicator data program under this chapter are confidential.

Sec. 8. Financial information that:

- (1) is collected under this chapter; or
- (2) results from the program;

is confidential.

Sec. 9. The state department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 6. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "commission" means the medical informatics commission established by subsection (c).

(b) As used in this SECTION, "health care provider" means a licensed physician or an agent of a physician.

(c) The medical informatics commission is established.

(d) The commission consists of fifteen (15) members as follows:

- (1) The secretary of family and social services, or the secretary's designee, who serves as chairperson of the commission.
- (2) The commissioner of the state department of health or the commissioner's designee.
- (3) The commissioner of insurance or the commissioner's designee.
- (4) Two (2) licensed physicians who are actively engaged in the practice of medicine.
- (5) Two (2) individuals who are engaged in the administration of a hospital licensed under IC 16-21.
- (6) One (1) individual who represents an insurer (as defined in IC 27-1-2-3) that issues or delivers a policy of accident and sickness insurance (as defined in IC 27-8-5-1).
- (7) One (1) individual who represents a health maintenance

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organization (as defined in IC 27-13-1-19).

(8) One (1) individual who has legal expertise in matters concerning the privacy and security of health care information.

(9) The state's chief information officer.

(10) One (1) individual who is engaged in the business of computer information technology.

(11) One (1) individual engaged in the business of health care information technology.

(12) One (1) individual from the business community.

(13) One (1) individual recommended by the Indiana Minority Health Coalition.

The governor shall appoint the members of the commission designated by subdivisions (4) through (12).

(e) If a vacancy occurs on the commission, the governor shall appoint a new member to serve for the remainder of the unexpired term. A vacancy shall be filled from the same group that was represented by the outgoing member.

(f) The commission shall elect from the commission members a vice chairperson and a secretary.

(g) The office of family and social services shall:

- (1) provide administrative support for the commission; and
- (2) if the budget agency determines there is money available, pay the expenses of the commission.

(h) Eight (8) members of the commission constitute a quorum for the transaction of all business of the commission. The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure.

(i) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided by the Indiana department of administration and approved by the budget agency.

(j) If the budget agency determines money is available, the commission and the office of family and social services shall:

- (1) conduct a study; or
- (2) contract for a study to be conducted;

on health care information and communication technology in Indiana.

(k) The office of family and social services may contract for advisory services under IC 5-22 to assist the commission in

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conducting the study under this SECTION. The request for proposals must include:

- (1) an organizational structure for the study; and
- (2) the feasibility of obtaining a governmental or private grant to assist in funding the study.

(l) The commission shall:

- (1) identify and seek assistance from the major participants in health care delivery and reimbursement systems who would be affected by an interoperable statewide health care information and communication technology system; and
- (2) establish a plan for the creation of an interoperable statewide health care information and communication technology system.

(m) The plan under subsection (l)(2) must include:

(1) a determination of:

- (A) the feasibility of; and
- (B) a plan for;

developing and implementing a health care information infrastructure system to be used by health care providers and other potential users;

(2) the identification of an organizational structure for:

- (A) the development of an open, flexible, and interoperable technology infrastructure; and
- (B) the continued operation and maintenance of the health care information and communication technology system recommended under this SECTION;

(3) an analysis of:

- (A) an existing information technology system of a health care provider, a government agency, or a third party payor; and
- (B) the feasibility of incorporating an existing system into the health care information and communication technology system recommended under this SECTION;

(4) the identification of an available governmental or private grant for the implementation of a health care information and communication technology system;

(5) a business plan for financing the development and maintenance of the technology infrastructure, including an available governmental or private grant;

(6) the identification of potential problems and recommended solutions regarding matters involving privacy, security, federal mandates or preemption, and antitrust laws;

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(7) an analysis of the current capabilities of the public and private telecommunications systems in Indiana to support the type and volume of data transmission required by the health care information and communication technology system recommended under this SECTION; and

(8) a recommendation that considers the following features:

(A) A provision to guarantee security and privacy for all health care providers, patients, and potential users of the system.

(B) A provision for an interoperable personal health record, including patient identification.

(C) The demonstrable and measurable ability to:

(i) improve the quality of health care;

(ii) improve patient safety;

(iii) reduce medical errors; and

(iv) reduce duplication of health care services.

(D) The ability to gather, store, and recall data efficiently and cost effectively.

(E) The ability for health care providers and other potential users to quickly access reliable, evidence based, and current treatment guidelines, standards, and protocols.

(F) The ability to provide rapid point of care access to medical information.

(G) A provision to enhance public health through:

(i) population based epidemiological studies;

(ii) automatic notification of reportable diseases; and

(iii) maintenance of statutorily mandated and voluntarily reported statistical databases and registries.

(H) A method for financing initial and continuing system related costs of health care providers, including user fees.

(I) Existing regulatory and administrative barriers to the implementation of the health care information and communication technology system recommended under this SECTION.

(J) The requirements for the National Health Information Network.

(K) Other appropriate features.

(n) The office of family and social services shall:

(1) if a contract is awarded under this SECTION, oversee and coordinate contractor performance; and

(2) provide to the general assembly:

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- (A) a biannual progress report before January 1, 2006, and July 1, 2006; and
- (B) a final report not later than November 1, 2006.
- (o) The commission's final report must:
 - (1) review the:
 - (A) study conducted by a recognized expert in health care information and communication technology, if applicable; or
 - (B) commission's study; and
 - (2) make recommendations regarding creating and implementing a plan for an interoperable health care information and communication technology system as required under this SECTION.
- (p) The commission shall, before providing the final report under this SECTION:
 - (1) issue drafts of the recommended final plan for public review; and
 - (2) hold at least one (1) public meeting in a central location in Indiana to receive public comments on the plan.
- (q) The commission shall provide each report under this SECTION in an electronic format under IC 5-14-6 to the general assembly through the legislative council.
- (r) This SECTION expires December 31, 2006.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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